IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2005

CORAM

THE HON'BLE MR.JUSTICE MARKANDEY KATJU, CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE F.M.IBRAHIM KALIFULLA

W.A.No.1495 of 1998

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1. Union of India,
   rep. by its Secretary to Government,
   Ministry of Home Affairs,
   New Delhi.

2. The Director-General of Police,
   CRPF, New Delhi.

3. The Commandant,
   78, Battalion, CRPF,
   Police Line Ropar,
   Punjab. ..Appellants/Respondents

Vs.

Mr.P.Gurunathan,
No.871222876, Constable-C.R.P.F.,
Mottupatti Village,
Konampatti Post,
Arur Taluk,
Dharmapuri District. ..Respondent/Petitioner

PRAYER: Appeal against the order of the learned single Judge dated 11.12.1997, passed in W.P.No.20682 of 1993. Presented to this court under Article 226 of the constitution of India to issue a writ of certiorarified mandamus calling for the records relating to the order passed by the third respondent in his Order No.P.VIII-3/93-78 dated Nil August,1993, Quash the same and to direct the third respondent to reinstate the petitioner in the 78 Battalion.

For Appellants :: Mr.S.Manikumar, S.C.G.S.C.
For Respondent :: Mr.Md.Ibrahim Ali

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J U D G M E N T

THE HON'BLE THE CHIEF JUSTICE

This Writ Appeal has been filed against the impugned order of the learned single Judge dated 11.12.1997, passed in W.P.No.20682 of 1993.

2. Heard learned counsel for the parties and perused the record.

3. By means of W.P.No.20682 of 1993 the writ petitioner (respondent herein) challenged the order of the Commandant, 78th Battalion, Central Reserve Police Force (hereinafter referred to as CRPF), Punjab dated nil August 1993. By that order the writ petitioner was removed from service of the CRPF w.e.f. 18.08.1993 under Section 11(1) of the CRPF Act, 1949 read with Rule 27 of the CRPF Rules, 1955.

4. The writ petitioner stated in his affidavit filed in support of the writ petition that he joined the services of CRPF as constable on 28.10.1987 after a selection. It is alleged that he was transferred to Punjab on 21.11.1988, and thereafter, to various other places. It is alleged that on 09.11.1992 the petitioner was granted 60 days earned leave by the Commandant, 78th Battalion, CRPF, Punjab (3rd respondent in the writ petition), and he was supposed to join duty on 08.01.1993, but he applied for extension of leave on health grounds. It is alleged that the writ petitioner returned for duty only on 10.03.1993 and produced a Medical Certificate dated 04.01.1993 issued by one Dr.Palaniswamy, MBBS, Government Medical Officer, Primary Health Center, Mookareddi Patti, Tamil Nadu.

5. It is alleged that the petitioner was informed by the 3rd respondent by his memorandum dated 15.04.1993 that he proposed to hold a departmental enquiry under Rule 27 of the CRPF Rules. The article of Charges framed against the writ petitioner were as follows:-

> "Article – 1: That No.871222876 Ct. P.Gurunathan of 78th Bn, CRPF while functioning as Constable (GD) in E/78 Bn, CRPF, committed act of misconduct in his capacity as a member of the Force u/s 11(1) of CRPF Act, 1949 in that he overstayed leave by 61 days from 08.01.1993 to 09.03.1993 (AN) without any authority/proper permission from competent authority.
>
> Article – 2: That the said No.871222876 Ct. P.Gurunathan of 78th Bn, CRPF while functioning as Constable (GD) in E/78 Bn, CRPF committed an act of misconduct in his capacity as a member of the force u/s 11(1) of CRPF Act, 1949 in that he did not comply with the orders of the competent authority directing him to report for duty

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conveyed vide telegram dated 12.02.1993 and OC-E/78 Bn., CRPF letter No.L.II-2/93-E-78 dated 20.02.1993."

6. It is further alleged in the affidavit filed in support of the writ petition that the writ petitioner by letter dated 17.05.1993 addressed to the 3rd respondent in the writ petition stated that due to jaundice from 08.01.1993 he could not travel from his hometown to the duty place i.e., Punjab. It is alleged that the writ petitioner had also sent two telegrams, but they were received by the 3rd respondent on 04.03.1993 after a lapse of many days.

7. A departmental enquiry was held against the writ petitioner. In that enquiry the writ petitioner was given an opportunity of hearing, and thereafter he was found guilty.

8. We have perused the enquiry report which has been annexed to the typed set in this appeal. A perusal of the same shows that the writ petitioner was allowed to defend his case in the enquiry. Two witnesses were examined on behalf of the prosecution, but the writ petitioner did not produce any defence witness.

9. The Enquiry Report states:-

"ANALYSIS OF CHARGES

In Article No.I Ct.P.Gurunathan has been charged that he overstayed by 61 days w.e.f. 08.01.1993 to 09.03.1993 without prior permission from the competent authority and remained absent willfully. The said Ct. had proceeding on 60 days E/L in connection with his brother's marriage. But, it did not take place. When leave was almost over and he was about to proceed he fell ill due to jaundice. But, on the meticulous examination of papers and the statement of the accused as well as witnesses it appears that he did not fell ill. It is a mere excuse as telegram sent by the accused and the medical documents produced by him are incongruous. As per the telegram received by the Comdt 78 Bn CRPG from Ct.P.Gurunathan on 11.01.1993 he was hospitalized but medical documents produced before the authority E/O do not prove it. In his statement also accused Ct.P.Gurunathan accepted that he was not admitted in hospital. Neither individual produced any prescription by doctor or cash memo, out door patient's slip, etc., so that E/o has reason to believe that the statement of the accused are false.

So far charge of absent without the prior permission of the competent authority is concerned accused could not produce any paper/such order by competent authority

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permitting him to overstay. He along with prosecution witnesses Nos.1 and 2 also accepted that he was not granted extension of leave rather he was informed many a times through telegram dt.12.02.1993 and letter No.II-1/93/E/78 dated 20.02.1993 from O.C. E/78 Bn CRPF asking him to report back on duty. Hence, the charge framed against Ct.G.Gurunathan that he overstayed leave by 61 days willfully without prior permission of competent authority is proved beyond doubt.

In the Article II of charge it is said that being a member of the force Ct.P.Gurunathan did not comply with the orders of the competent authority directing him to report for duty conveyed vide telegram dated 1222-93 and O.C.E/E/78 Bn CRPF letter No.L.II-1/93-E/78 dated 20.02.1993 Ct.P.Gurunathan did not comply with the orders of the Senior Officers and in support of his non-compliance produced a medical certificate which is insufficient to prove the validity of the ground of his willful absence. Thus, the charge framed against him that he did not comply with the orders of the superior is proved.

REPORT

On the basis of detailed analysis of the statements of prosecution witnesses, delinquent and the available record/documents the report of the Enquiry Officer is as under:-

Article I of Charge that No.871222876 Ct.P.Gurunathan of E/78 Bn CRPF committed an act of mis-conduct in his capacity as a member of the force under Section 11(1) of CRPF Act, 1949 in that he overstayed leave by 61 days from 08.01.1993 to 09.03.1993 AN without any authority/prior permission from the competent authority. The said individual had gone on 60 days EL in connection with the brother's marriage though in application he wrote brother's marriage and in the statement he said that he had gone in connection with sister's marriage. This incongruity shows the false ground of leave he proceeded on. On whichever ground he had gone, but no marriage (either of brother's or sister's) took place during his leave period as he says. Accused overstayed leave by 61 days without any authority/prior permission of the competent authority. Though he had sent a medical certificate in support of his willful absence but that is not sufficient to prove that facts as no other medical document was produced by him supported. Accused Ct.P.Gurunathan was asked through telegram dated 12.03.1993 and letter

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No.L.II-1-93-E/78 dated 20.02.1993 to report back on duty immediately but he kept on overstaying for a long period of 61 days. This is enough to prove the Article I of Charge framed against him beyond doubt.

So far as Article II of charge is concerned it is very much related to Article I from the telegram sent by OC-E/78 dated 12.02.1993 and letter No.L.II-I/93-E/78 dated 20.02.1993 and not reporting back to duty by the individual shows very clearly that he was non-compliant to senior authority. The individual behaved in a very irresponsible and negligent manner which is not in good order and discipline of the force. Charge framed in Article II is proved beyond doubt."

10. Thereafter, the Commandant, 78th Battalion, CRPF wrote a letter dated 06.07.1993 to the writ petitioner enclosing a copy of the finding of the Enquiry Officer, asking him to send his representation by 20.07.1993. Thereafter, by order dated nil August, 1993 the Commandant 78th Battalion removed the writ petitioner from service. The relevant portion of the removal order dated nil August, 1993 is as follows:-

"I have gone through the D.E. proceedings carefully and agree with the findings of the E.O. I find that both the charges levelled against the delinquent are proved. I give below reasons for coming to the above conclusion taking each article of charge separately.

ARTICLE - I

The charges that the delinquent No.871222876 Ct.P.Gurunathan overstayed leave by 61 days from 08.01.1993 to 09.03.1993 without any authority/prior permission from the competent authority.

D.E. against Ct.Gurunathan:-

The delinquent was granted 60 days EL from 09.11.1992 to 07.01.1993 with permission to avail 08.11.1992 being Sunday. He was therefore required to report for duty on the forenoon of 08.01.1993 on expiry of the sanctioned leave. On 07.01.1993 a telegram was received from the delinquent informing that he was admitted in the hospital and has requested for extension of the leave. The delinquent was directed by OC-E/78 Bn CRPF through telegram dated 12.01.1993 to send the medical documents in support of his illness/admission in the hospital and to intimate specifically the period for which the extension of leave is required. In reply he intimated that 60 days leave is required. He did not send any medical documents in support of his

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illness/treatment. He was therefore directed telegraphically by IC-E/78 Bn CRPF on 12.03.1993 to report for duty forthwith. A letter No.L.II-2/93-E/78 dated 20.02.1993 directing the delinquent to report for duty was also sent to him at his home address by registered post. The delinquent did not respond to these directions but continued to overstay leave. Finally on 10.03.1993 he reported for duty after overstaying leave by 61 days. On his return he submitted a medical certificate dated 04.01.1993 issued by Dr.T.Palanisamy, Medical Officer, Primary Health Centre, Mookareddipatti (T.N.). As per this certificate the delinquent was suffering from jaundice from 04.01.1993 and therefore was recommended 60 days treatment rest. During the course of enquiry, the delinquent was stated that he was not admitted in hospital. But, in the telegram seeking extension it was revealed by him that he was admitted in hospital. He gave wrong information in telegram with the intention of getting the extension of leave sanctioned. I have noticed that the delinquent claims to have fallen ill on 04.01.1993 (as per the medical certificate produced by him) i.e., the day on which he was supposed to start his return journey on expiry of sanctioned leave. I have also noticed that the delinquent failed to produce any other documents such as cash memo for purchase of medicines, prescription, OPD number, investigation report, etc. One who is actually undergoing treatment for jaundice is supposed to be in possession of all these documents. During the course of enquiry he has stated that he did not know any such documents. He was specifically directed through telegram dated 12.02.1993 and letter dated 20.03.1993 to submit documents in support of his illness treatment. In spite of these directions failed to produce any documents except a certificate issued by Dr.T.Palanisamy, MBBS which is not at all sufficient to decide the case in his favour. The delinquent has failed to produce any valid documents to prove he was actually ill and was undergoing treatment. On analyzing the facts discussed above, I am convinced that the delinquent was suffering from any disease but managed to obtain a medical certificate to cover the period of overstay. I hold him guilty of charge at Art.I.

ARTICLE - II

Charges at Art.II is that he did not comply with the orders of the competent authority directing him to report for duty conveyed vide telegram dated 12.02.1993 and OC-E/78 Bn CRPF

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letter No.L.II-2/9 3-E/78 dated 20.02.1993. The delinquent was not suffering from any disease as has been proved in the preceding paragraphs. As such he had no reason not to report for duty in time in spite of repeated orders conveyed through telegram and letters. I hold him guilty of charge at Art.II also.

D.E. against Ct.P.Gurunathan.

Having gone through the case carefully and minutely find that the delinquent has acted in a most unbecoming and irresponsible manner and I find him not a fit person to be retained in a disciplined force like CRPF. I, therefore, remove the delinquent No.871222876 Ct.P.Gurunathan from service with effect from 18.08.1993 (FN) under the provisions contained in Section 11(1) of CRPF Act, 1949 read with Rule 27 of CRPF Rules, 1955 and is struck off from the roll with Rule 27 of the CRPF Rules, 1955 and is struck off from the strength of this unit with effect from the same date. Before, arriving at the above decision I have considered all aspects of the case and applied my mind judiciously."

11. Against the removal order the writ petitioner filed W.P.No.20682 of 1993, which had been allowed by the learned single Judge vide his impugned order dated 11.12.1997. We have carefully perused the impugned order of the learned single Judge and are of the opinion that the same is clearly unsustainable.

12. It may be noted that the learned single Judge has not questioned the findings of fact recorded by the Enquiry Officer, and in fact findings of fact cannot be interfered with in writ jurisdiction, unless they are based on no evidence, vide Government of Tamil Nadu Vs. A.Rajapandian, (1995) 1 SCC 216, Rae Bareli Kshetriya Gramin Bank Vs. Bhola Nath singh, (1997) 3 SCC 657, Commandant, T.N. Special Police, 9th Battalion Vs. D.Paul, 1999 SCC (L&S) 789. In this case there is evidence in support of the findings namely., the two witnesses produced by the prosecution. Moreover, in cases of this nature, i.e., where there is allegation of absence without leave the burden of proof is really on the delinquent to explain his conduct and not on the prosecution. A perusal of the impugned order of removal dated nil August, 1993 shows that the delinquent was granted 60 days EL from 11.09.1993 to 07.11.1993. On 07.11.1993 a telegram was received from him informing that he was admitted in a hospital and with a request for extension of leave. The delinquent was directed through telegram dated 12.01.1993 to send the medical documents in support of his illness/admission in the hospital and to intimate specifically the period for which the extension of leave was required. In reply he intimated that 60 days

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leave was required, but he did not send any medical documents in support of his alleged illness/treatment. He was therefore directed telegraphically on 12.03.1993 to report for duty forthwith. A letter dated 20.02.1993 directing him to report for duty was also sent to him at his home address by registered post. However, he did not respond to this, but continued to overstay his leave. Finally, he reported for duty on 10.03.1993 after overstaying leave by 61 days, and on his return he submitted a medical certificate issued by Dr.T.Palanisamy, Medical Officer, Primary Health Centre, Mookareddi Patti (TN) which stated that he was suffering from jaundice from 04.01.1993 and therefore recommended 60 days treatment and rest.

13. During the course of enquiry the delinquent stated that he was not admitted in the hospital, but in the telegram seeking extension it was alleged by him that he was admitted in hospital. Thus, it appears that he gave wrong information with the intention to get extension of leave sanctioned.

14. The disciplinary authority (Commandant, 78th Battalion, CRPF) also noticed that the delinquent claimed to have fallen ill on 04.01.1993 (as per the medical certificate produced by him) i.e., the day on which he was supposed to start his return journey on expiry of sanctioned leave. The delinquent also failed to produce any other documents such as cash memo for purchase of medicines, prescription, OPD number, investigation report, etc. A person undergoing treatment for jaundice would be having possession of all these documents, but the delinquent did not. In fact, during the enquiry he stated that he does not have any such documents. He was specifically directed through telegram dated 12.02.1993 and letter dated 20.03.1993 to submit these documents in support of his alleged illness/treatment, but he failed to produce any document except the medical certificate issued by Dr.T.Palanisamy. The disciplinary authority did not accept that certificate as sufficient proof in favour of the petitioner. The disciplinary authority was of the view that the delinquent was not suffering from any disease, but managed to obtain a medical certificate to cover up the period of overstay of leave. These are findings of fact, and we cannot interfere with the same in writ jurisdiction.

15. The learned single Judge has also not interfered with these finding of facts. However, what he has held is that the punishment is disproportionate to the charges, and having said so, he set aside the impugned order of removal and directed reinstatement of the writ petitioner with backwages and consequential attendant benefits. He further directed that the writ petitioner would also get his annual increments from the date of his removal, promotion, etc.

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16. In our opinion, the punishment imposed on the writ petitioner cannot be said to be disproportionate. It must be remembered that in a para-military organization like the CRPF strict discipline has to be maintained, otherwise, the force cannot function properly. Overstaying leave is a very serious offence in an armed State organization. Hence, in our opinion, the punishment of removal from service was rightly imposed by the Commandant and the same calls for no interference.

17. The Commandant, 78th Battalion, CRPF in his order dated nil August, 1993 gave detailed reasons as to why the medical certificate issued by Dr.T.Palanisamy has not been accepted. It is not for this Court in writ jurisdiction to interfere with the findings of fact recorded by the enquiry officer or the disciplinary authority.

18. We do not agree with the learned single Judge that the punishment imposed was disproportionate to the offence committed. It may be that in civilian service overstaying leave for a few days may not be such a serious offence so as to call for dismissal/removal as the punishment, but in the armed service or police service it is a very serious offence and no leniency is called for nor can be permitted.

19. It may be mentioned that initially the writ petitioner had gone on leave in connection with his alleged brother's marriage. In the statement before the enquiry officer he said that he had gone on leave in connection with his sister's marriage. The enquiry officer found that no marriage, either of brother's or his sister's, took place during his leave period. This is a finding of fact and we cannot interfere with the same in writ jurisdiction. Thus, even the initial obtaining of leave by the petitioner was on a false pretext.

20. Moreover, even regarding his alleged sickness he did not produce the relevant documents i.e., cash memo for purchase of medicines, prescription, OPD number, investigation report, etc. The enquiry officer after careful consideration of the oral and documentary evidence recorded a categorical finding that the writ petitioner was not admitted in the hospital as he claimed. He did not produce any prescription of any doctor. He also admitted during enquiry that he was not admitted in the hospital. All that he produced was a medical certificate of Dr.T.Palanisamy, which was not accepted.

21. The enquiry officer found both the charged proved and these are findings of fact which cannot be interfered with in writ jurisdiction. The disciplinary authority found that the writ petitioner (respondent in the writ appeal) has acted in a most unbecoming and irresponsible manner and further found that the writ petitioner is not a fit person to be retained in a disciplined force like the CRPF. We find no reason to interfere with such an order. The CRPF is

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a disciplined force where every member of the force is expected to observe strict discipline. Any act of indiscipline on the part of any member of the force affects the morale and efficiency of the force and therefore it is necessary to take stern action against such erring members. In the counter affidavit filed in the writ petition by respondents 2 and 3 therein, the full facts have been stated, and hence we are not repeating the same. It is evident from the facts that the writ petitioner overstayed leave on false grounds, and even the original leave was obtained by stating false facts. The writ petitioner submitted only a medical certificate on his return from leave. The writ petitioner had been specifically directed by the Officer Commanding vide telegram dated 12.02.1993 and letter dated 20.03.1993 to send all the documents in support of his claim of leave, but he did not do so. On the other hand in a reply to the question of the enquiry officer in the enquiry the writ petitioner stated that he did not have any such document. From this, the enquiry officer rightly concluded that the claim of the writ petitioner that he is ill is false. At any event we cannot sit in appeal over the finding in writ jurisdiction.

22. In our opinion, the learned single Judge failed to consider the fact that the writ petitioner was a member of a disciplined force in which strict discipline was required, and an over liberal approach cannot be accepted. The writ petitioner overstayed leave without prior permission and failed to comply with the orders of the competent authority which is a serious misconduct.

23. In Mithilesh Singh Vs. Union of India, (2003) 3 SCC 309 the Supreme Court held that mere application for grant of leave cannot be construed to be a proper intimation of leave. The Supreme Court noted that there is a prohibition on every member of the force to leave the station even on holidays without specific permission of the authorities empowered to grant leave. Such, misconducts clearly bring down the sense of discipline which is required to be observed in an armed force. The Supreme Court also observed that the scope of interference with the order of punishment passed by the disciplinary authority is very limited, and unless the punishment appears to be shockingly disproportionate, the Court cannot interfere with the same. The Supreme Court referred to its earlier decisions in B.C.Chaturvedi Vs. Union of India, (1995) 6 SCC 749, State of U.P. Vs. Ashok Kumar Singh, (1996) 1 SCC 302, Union of India Vs. G.Ganayutham, (1997) 7 SCC 463, Union of India Vs. J.R.Dhiman, (1999) 6 SCC 403, Om Kumar Vs. Union of India, (2001) 2 SCC 386, etc.

24. In Director General, RPF Vs. Ch.Sai Babu, (2003) 4 SCC 331 the Supreme Court held that the punishment imposed by a disciplinary authority, should normally not be disturbed by the High Court or a tribunal except when the punishment is found to be shockingly disproportionate.

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25. In the present case, in our opinion, the punishment was not shockingly disproportionate for the reasons already mentioned above. In fact it was the appropriate punishment to a member of a disciplined armed force.

26. The learned counsel for the respondent-writ petitioner has relied on the decision of the Supreme Court in Shri Bhagwan Lal Arya Vs. Commissioner of Police, Delhi, (2004) 4 SCC 560. We have carefully perused the said decision and we feel that the same is distinguishable. It may be mentioned that the ratio of a decision can only be deduced after properly examining the facts of the case. In Padmasundara Rao Vs. State of Tamil Nadu, AIR 2002 SC 1334 (vide para- 8A) the Supreme Court observed that Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision relied on.

27. In Bharat Petroleum Corporation Ltd. Vs. N.R.Vairamani, 2004 (5) CTC 74 the Supreme Court observed:-

> "Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated".

28. In our opinion, one additional or different fact in two different cases would make a world of a difference in the conclusions in those two cases.

29. The following words of Lord Denning in the matter of applying precedents have become locus classicus:

> "Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive.
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> Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches. My plea is to keep the path of justice clear of obstructions which could impede it."

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30. In Shri Bhagwan Lal Arya's Case (supra), the facts were that the appellant was recruited as a constable in the Delhi Police and while undergoing the training he fell down on the parade ground on 07.10.1994. He was sent to the police dispensary, but since his condition did not improve his relatives took him to his home town in Gwalior. He remained under treatment of government doctors there and sent applications for leave on medical grounds supported with the medical certificates from competent medical authorities in accordance with the leave rules. The competent police authority passed an order on 16.01.1995 sanctioning leave without pay for the period of his illness from 07.10.1994 to 14.12.1994. According to the appellant since the competent authority had granted leave, the question of issuing any charge sheet subsequently for unauthorized absence for the same period would not arise. On 15.11.1994, notice of termination from service was issued stating that his services shall stand terminated with effect from the date of expiry of a period of one month from the date notice is received by the appellant. The appellant resumed duty on 15.12.1994 after submitting fitness certificate from the dispensary in Gwalior, where he had taken treatment. The service of the appellant was terminated with effect from 31.12.1994 under Rule 5 Clause (1) of the Temporary Service Rules. On 16.01.1995, the competent authority sanctioned leave without pay for his illness from 07.10.1994 to 14.12.1994 after the receipt of the termination order. The appellant made a representation for reinstatement. After a gap of more than 4 months, the Commissioner of Police reinstated him in service forthwith with the provision that the intervening period from 01.01.1995 till he was reinstated will be decided at the time of finalisation of his disciplinary enquiry. The appellant resumed service after the reinstatement order dated 25.05.1995. However, he again fell ill and was on leave for several days on medical grounds and was granted leave by the respondents. On 24.07.1995 a disciplinary enquiry was initiated against the appellant under the Delhi Police (Punishment and Appeal) Rules, 1980. After the enquiry he was removed from service.

31. In the above case, the Supreme Court was of the view that the punishment of removal from service was disproportionate, since medical leave in fact had been sanctioned to the appellant therein, and he had supplied all material in respect of his claim for medical leave. The Supreme Court observed that the High Court had not appreciated the fact that medical leave had been sanctioned to the appellant. It was on those facts that the Supreme Court held in that case that the punishment was disproportionate to the misconduct committed.

32.In our opinion, the facts of Shri Bhagwan Lal Arya's Case (Supra) are totally different from the facts of the present case. In the case on hand, the leave was not sanctioned for the period for which the writ petitioner

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(respondent in Writ Appeal) overstayed leave. Rather, it was found by the enquiry officer that not only his claim for medical leave was false, even the original leave granted to him was based on the false claim that he had to attend his brother/sister's marriage. Thus, we find that the decision of the Supreme Court in Shri Bhagwan Lal Arya Case (Supra) is clearly distinguishable and it does not help the writ petitioner.

33. In M.Vallavaraj Vs. The Deputy Inspector General, CISF, (2005) 2 MLJ 152 a Division Bench of this Court observed that any leniency in the order of punishment of a police constable in the CISF would be doing an act which could demoralise the strict discipline of the force. We respectfully agree with the view taken in the aforesaid decision.

34. For the reasons given above, this writ appeal is allowed. The impugned order of the learned single Judge is set aside, and the order of removal passed by the 3rd respondent in the writ petition (3rd appellant in the writ appeal) removing the writ petitioner (respondent in the writ appeal) from the services of CRPF is affirmed. No costs.

sm

Sd/
Asst.Registrar

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Sub Asst.Registrar

1. The Secretary to the Government of India,
   Ministry of Home Affairs,
   New Delhi.

2. The Director-General of Police,
   CRPF, New Delhi.

3. The Commandant,
   78, Battalion, CRPF,
   Police Line Ropar,
   Punjab.

+1 cc to Mr.S. Mani kumar, SCGSC,(SR 35476)
+1 cc to Mr.M. Md. Ibrahim Ali, (SR 35684)

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rvr

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